



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

April 15, 2002

Richard Dalton  
1071A E 2250 S  
Bliss, ID 83314

RECEIVED

APR 16 2002

Paul Zellar  
1152 Old Malad River Hwy  
Bliss, ID 83314

Department of Water Resources

Howard Morris  
1101 E 2900 S  
Hagerman, ID 83332

RE: Thorpe Ditch Diversion Works

Gentlemen:

The watermaster of Water District 37 (Big Wood and Malad River), Lee Peterson, has recently contacted our office informing us of his recent efforts to get the headworks and measuring device repaired on the Thorpe Ditch. He indicated that his efforts over the last few years have been met with reluctance by some of those responsible to maintain the headworks and that the headworks have continued to deteriorate. Currently the headworks are in such a state that immediate action is required to repair it.

Please be advised that the watermaster has been duly elected pursuant to Title 42, Chapter 6 of the IDAHO CODE and is authorized to regulate your diversion. Please also be advised that Title 42, Chapter 7 of the IDAHO CODE provides for the measurement of water. Specifically Section 42-701 states in pertinent part:

42-701. INSTALLATION AND MAINTENANCE OF CONTROLLING WORKS  
AND MEASURING DEVICES BY WATER APPROPRIATORS -- PROCEDURE UPON  
FAILURE TO INSTALL AND MAINTAIN -- MEASURING AND REPORTING OF  
DIVERSIONS -- PENALTY FOR FAILURE TO COMPLY -- ENFORCEMENT  
PROCEDURE -- REPORT FILING FEE.

(1) The appropriators or users of any public waters of the state of Idaho shall maintain to the satisfaction of the director of the department of water resources suitable headgates and controlling works at the point where the water is diverted. Each device shall be of such construction that it can be locked and

kept closed by the watermaster or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point. Each such appropriator shall construct and maintain, when required by the director of the department of water resources, a rating flume or other measuring device at such point as is most practical in such canal, ditch, wellhead or pipeline for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said canal, ditch, wellhead or pipeline from the stream, well or other source of public water. Plans for such headgates, rating flumes or other measuring devices shall be approved by the department of water resources.

(2) If an appropriator determines that installation and maintenance of a measuring device required by the director would be burdensome for his diversion, the appropriator may, upon approval of the director, execute an agreement with the director and submit to the director such information and technical data concerning the diversion and pumping facilities as the director determines necessary to establish the relationship of power usage to water withdrawal by any pump used to divert public water.

(3) Any appropriator or user of the public waters of the state of Idaho that neglects or refuses to construct or maintain such headgates, controlling works, or measuring devices, or has not executed an agreement in lieu of a measuring device as provided in subsection (2) of this section, upon receiving ten (10) days' notice from the director of the department of water resources within which to begin and diligently pursue to completion the construction or installation of the required device or devices or to begin and diligently pursue to completion a remedy to such defects as exist in accordance with said notice, then the director of the department of water resources may order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion, the water owned by such appropriator or user until the user does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist or the director may take action pursuant to section 42-1701B, Idaho Code, to enforce the requirement to construct, install or maintain such devices.

(4) The appropriators or users of the public waters of the state of Idaho shall be given a reasonable time within which to complete construction of such headgates, controlling works or measuring devices, depending upon the size and extent thereof, when due diligence has been used in the prosecution of such work.

Please consider this letter the "notice" from the director of the department of water resources as described in 42-701 (3) listed above. The department requires you to repair your diversion works and measuring device to the satisfaction of the watermaster on or before May 15<sup>th</sup>, 2002, unless there are other arrangements made with the watermaster.

If you have questions or would like to schedule an appointment to meet with the watermaster and a department representative at your headworks, please feel free to contact this office.

Respectfully,



Allen Merritt, PE  
Southern Region Manager

CC: Tim Luke – IDWR Water Management  
Lee Peterson – WM37 & 37M